

DETAILED ACTION

1. The applicant's letter mailed 12 April 2008 requests that the period for response of the 13 February 2008 Office Action be restarted. The applicant requests that the period for response be reset to begin 08 April 2008.

In view of the above the applicant's period for response to the non-final Office Action is hereby restarted to as of the mailing of this office action.

Claim Rejections - 35 U.S.C. § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-5, 7, and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1 and 7 each recite "wherein the dimensions of the at least one slider, the force on the slider, and the speed of commencement of the test run are selected such that when the test surface is wet the hydro-dynamic critical film thickness developed is in the range of 1 to 3 μm ". The applicant's written description, as originally filed, does not provide adequate disclosure on how to

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teach on of ordinary skill how to select the dimensions, the force, and the speed in order develop the claimed critical film thickness.

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by “Evaluation of the Kirchberg Rolling Slider and SlipAlert Slip Resistance Meters” to Hallas¹.

Hallas discloses that a friction testing apparatus was constructed that is similar to a Kirchberg Rolling Slider from 1997. As seen in figure 2.3 the slider has a body, wheels, and at least one slider on its underside to induce friction between the body and the test surface. A ramp is used as the means to accelerate the body. As the body has a predetermined mass and a predetermined size the final velocity at the end of the ramp will be constant and predetermined.

¹ Hallas is being cited in accordance with MPEP §2124 - *Exception to the Rule That the Critical Reference Date Need Not Antedate the Filing Date*. Hallas discloses the known prior art from 1997 as Kirchberg *et al.*'s sliding resistance testing device, cites a reference to "In situ measurement of sliding friction of floors: study for the optimization of check parameters" to Kirchberg *et al.*, and compares the Kirchberg *et al.* device to that of the present application. A copy of this citation has been made of-record.

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With regard to the applicant's phrase the "wherein the dimensions of the at least one slider, the force on the slider and the speed of commencement of the test run are selected such that when the test surface is wet the hydrodynamic critical film thickness developed is in the range of 1 to 3 μm " it is noted that the claimed size and shape does not structurally differentiate the applicant's device from the prior art. See also MPEP §2144.04 citing *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984) and also *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997).

Allowable Subject Matter

6. Claims 6 and 9-18 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:

In the Kirchberg et al. device the wheels will be used to cause the trolley to roll down a ramp. The wheels are not sized to allow the friction pads located on the lower surface to contact the ground (test surface) simultaneously with the wheels.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID A. ROGERS whose telephone number is (571)272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on

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(571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David A. Rogers/
Examiner, Art Unit 2856